

This letter discusses sales tax issues in regard to sales made by a retailer located on a U.S. Government facility in Illinois. See 86 Ill. Adm. Code 130.1105. (This is a GIL.)

April 21, 2006

Dear Xxxxx:

This letter is in response to your letter received January 27, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our company has been awarded a five year contract by the federal government to be the food service contractor for the BASE comprises of civilian and army personnel. The base is located LOCATION, and is not responsible for local city sales or option taxes. We are assuming that we have a tax liability to the state of Illinois, but I cannot find a specific ruling on the Web stating this obligation since our location is on federal property and services government personnel. I spoke to a tax revenue specialist who believes we must file these taxes monthly, but suggested I request an official letter or ruling from your department. It would be helpful to us, as we are under the authority of the military Contracting Officer. We are due to begin our operations on February 6, 2006, so I would very much appreciate a letter from your office as soon as possible.

We will be operating a food court style facility and will be selling food prepared in our kitchens, such as pizzas, subs and entrees. Tax rate \_\_\_\_\_

The food court will also sell prepackaged items such as chips, pastries, and bottled water and juices. Tax rate \_\_\_\_\_

We will also be operating two cafeterias in separate other buildings, and selling food we prepare for breakfast and lunches. Tax rate \_\_\_\_\_

The cafeteria will also sell prepackaged items such as chips, pastries, and bottled water and juices. Tax rate \_\_\_\_\_

Another location is a retail (convenience store) which sells prepackaged items such as chips, pastries, bottled waters, juices and over the counter medications, i.e. aspirin. Tax rate \_\_\_\_\_

Also sold at the retail store are gift items such as cards and magazines, as well as carbonated beverages. Tax rate \_\_\_\_\_

Newspapers. Tax rate \_\_\_\_\_

We will have to build these rates into our system and need this information quickly. I am enclosing a self-addressed stamped envelope for your convenience.

## **DEPARTMENT'S RESPONSE**

Under the Department's regulation entitled, "When Deliveries on Federal Areas are Taxable" (86 Ill. Adm. Code 130.1105), if the Retailers' Occupation Tax would otherwise apply, persons engaged in the business of selling tangible personal property for use or consumption are required to remit Retailers' Occupation Tax to the Department notwithstanding the fact that the delivery of the personal property sold is made on a Federal area. It is immaterial that the place of business of such persons may be located on the Federal area. While the Act does not apply to receipts from sales made by the United States Government, or instrumentalities thereof in the performance of a governmental function (see 86 Ill. Adm. Code 130.2055), concessionaires and other retailers having places of business located on Federal areas are subject to the Retailers' Occupation Tax.

The Illinois Counties Code provides that "[e]ach county bounded by either the Mississippi, Ohio or Wabash river, shall have jurisdiction over such river to the extent it is so bounded, which jurisdiction may be exercised concurrently with the contiguous states bounded by such river." 55 ILCS 5/1-1003. We checked with the CITY regarding the jurisdiction of the BASE for purposes of local taxes. According to the City Clerk, the BASE is not located in the CITY but it is located in COUNTY. Therefore, any local sales taxes applicable in COUNTY are applicable to vendors making retail sales in the BASE. The State sales tax rate for general merchandise is 6.25% and 1% for food, drugs, medicines and medical appliances. Local taxes collected by the Department of Revenue for the county are listed on the Department's web site.

Under the Retailers' Occupation Tax and Use Tax, sellers required to collect tax must either charge tax or document an exemption when they make deliveries in Illinois. Sales to exempt organizations, such as the U.S. Government, must be documented in order to be exempt.

In Illinois, sales made to governmental bodies (Federal, State, local, or foreign) are not subject to Retailers' Occupation Tax, if properly documented. (See 86 Ill. Adm. Code 130.2080) In order to make a tax-exempt purchase, governmental bodies must provide the retailer with an active exemption identification "E" number issued by the Department or present a U.S. Government Bank Card. Only sales of tangible personal property invoiced directly to the governmental body are exempt. Sales made to individual government employees who will be reimbursed by the government are subject to tax. Retailers presented with a U.S. Government Bank Card must determine that the card will be invoiced to the U.S. Government and not to the individual presenting it, in order to allow the

exemption. For further information, please see the Department's letter rulings regarding sales to governmental bodies.

Generally, "[w]ith respect to food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which as been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use, the tax is imposed at the rate of 1%." 35 ILCS 1210/2-10. The Department's regulation regarding Food, Drugs, Medicines and Medical Appliances is set forth at 86 Ill. Adm. Code 130.310.

For your guidance regarding the selling of publications in Illinois, please see the Department's regulation for Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers". 86 Ill. Adm. Code 130.2105. Please note that, while sales of many publications are exempt from Retailers' Occupation and Use Tax as a result of the newsprint and ink exemption, this exemption does not extend to the transfer of news by CD-Rom discs.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
Associate Counsel

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